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THE GOVERNMENT OF GERMANY

By

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COLUMBIA UNIVERSITY



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THE GOVERNMENT OF GERMANY.¹

By CHARLES D. HAZEN, *Professor of European History,
Columbia University.*

THE President of the United States in his address to Congress on April 2 announced that our object in entering the war against Germany was "to vindicate the principles of peace and justice in the life of the world as against selfish and autocratic power;" declared that the menace to the world's peace and freedom "lies in the existence of autocratic governments, backed by organized force which is controlled wholly by their will, not by the will of their people;" announced that "a steadfast concert for peace can never be maintained except by a partnership of democratic nations," as "no autocratic government could be trusted to keep faith within it or observe its covenants;" stated the grounds for his conviction that "the Prussian autocracy was not and could never be our friend;" said that we were now about to accept the gauge of battle with "this natural foe to liberty," and that we would if necessary "spend the whole force of the nation to check and nullify its pretensions and its power." He referred to the German Government as "an irresponsible government which has thrown aside all considerations of humanity and of right and is running amuck;" and declared that the war was a war for democracy and elementary human rights and for the liberation of the peoples, including the German peoples.

Was the President speaking soberly and fairly when he described the Prussian Government as an autocracy and the German Government as irresponsible? Was this arraignment as accurate and just, as it certainly was scathing? Can one say that a people is ruled autocratically when they are endowed with written constitutions, have parliaments

¹ Revised and reprinted from the New York Times, July 1, 1917.

for their individual states and for their nation as a whole, have frequent elections, in which political parties wrangle with each other, and enjoy, or at least possess, the right to vote?

The German Empire is a confederation, founded in 1871, and founded by the princes, not by the people, and consists of 25 States and one Imperial Territory, Alsace-Lorraine. The King of Prussia is ipso facto German Emperor. The legislative power rests with two bodies, the *Bundesrat*, or Federal Council, and the *Reichstag*. The Emperor declares war with the consent of the *Bundesrat*, the assent of the *Reichstag* not being required. Not even the *Bundesrat* need be consulted if the war is defensive, and as the Hohenzollerns have always claimed to make defensive warfare it is not surprising that even the unrepresentative *Bundesrat* was officially informed about the present war three days after the Emperor declared it. He is commander in chief of the army and navy, he has charge of foreign affairs, and makes treaties, subject to the limitation that certain kinds of treaties must be ratified by Parliament. He is assisted by a chancellor, whom he appoints and whom he removes, and who is responsible to him and to him alone. Under the chancellor are various secretaries of state, who simply administer departments, but who do not form a cabinet, either in the English or French or American sense. They are responsible to the chancellor.

The laws that govern the German Empire are made by two bodies—the *Bundesrat* and the *Reichstag*. The *Bundesrat*, of which we in America hear very little, is the most powerful body in the Empire, far more powerful than the *Reichstag*, of which we hear a great deal. It possesses legislative, executive, and judicial functions, and is a kind of diplomatic assembly. It represents the States; that is, the rulers of the 25 States of which the Empire consists. It is composed of delegates appointed by the rulers. Unlike the Senate of the United States, the States of Germany are not represented equally in the *Bundesrat*, but most unequally. There are 61 members. Of these Prussia has 17, and the 3 votes allotted to Alsace-Lorraine since 1911 are “instructed” by the Emperor. Thus Prussia has 20. Bavaria

has 6, Saxony and Württemberg 4 each, others 3 or 2, and 17 of the States have only 1 apiece. The members are really diplomats, representing the numerous monarchs of Germany.

They do not vote individually, but each State delegation votes as a unit and as the ruler orders it to. Thus the votes that Prussia controls are cast always as a unit and as the King of Prussia directs. The *Bundesrat* is in reality an assembly of the sovereigns of Germany. It is responsible to nothing on earth, and its powers are very extensive. It is the most important element of the legislature as most legislation begins in it, its consent is necessary to all legislation, and every law passed by the *Reichstag* is, after that, submitted to it for ratification or rejection. It is, therefore, the chief source of legislation. The Princes of Germany have an absolute veto upon the only popular element in the government, the *Reichstag*. Representing the Princes of Germany, the *Bundesrat* is a thoroughly monarchical institution, a bulwark of the monarchical order. The proceedings of this princely assembly are secret which is one reason why we know and hear less about it than we do about the *Reichstag*.

Much less important than the *Bundesrat* is the *Reichstag*, the only popular element in the government of the Empire. It consists of 397 members, elected for a term of five years by the voters; that is, by men 25 years of age or older. The powers of the *Reichstag* are vastly inferior to the powers of the House of Commons or the Chamber of Deputies or the House of Representatives. While it, in conjunction with the *Bundesrat*, votes the appropriations, certain ones, notably those for the army, are voted for a period of years. Its consent is required for new taxes, whereas taxes previously levied continue to be collected without the consent of Parliament being again secured.

The *Reichstag* has no power to make or unmake ministries, in other words, to control the executive, the Emperor. It may reject the measures demanded by the Government, it may vote what amounts to a lack of confidence in the Chancellor, but to the Chancellor it makes notoriously little difference. As long as he enjoys the confidence of the Emperor he continues on his way. Bismarck was fond of

repeating from the tribune that he was not the servant of the *Reichstag*, but exclusively of the Crown. The imperial will determines the fate, the rise and fall of the Chancellor.

Bethmann Hollweg was the Emperor's man in body and soul. No velleity of independence ever surged up in that submissive bosom. A bureaucrat of 40 years' standing, advancing by regular gradations from the lowest rungs of the administrative ladder to the highest, his view remained the same, his gaze was at every stage riveted solely upon his superior, and his superior never was the *Reichstag*. His source of inspiration was in the Schloss, not in the benches of the popularly elected legislature. Bethmann Hollweg was sometimes frank, frank to the point of rudeness. "Gentlemen," he said at the beginning of his chancellorship, "I do not serve Parliament," and was loudly applauded for his insolence by the members of the conservative parties of the Parliament, thus a victim of the proud man's contumely. And he ended this scornful speech with the statement that there was one rôle which he absolutely refused to play, that of the servant of the people's representatives. Bethmann Hollweg, who has curiously been considered a Liberal by some ill-informed and putative American Liberals, had the merit of great clarity in his consistent, undeviating hostility and contempt for parliamentarism and for democracy. When reproached by the Socialists for not resigning after a vote of censure, as they do in France, he retorted that even children knew the difference between France and Germany.

"I know full well that there are those who are striving to establish similar institutions here," he said. "I shall oppose them with all my force."

Only the other day this "Liberal" told the Right and the Left, contemptuously, that he was serving neither of them. He had a more august master. Not only does the *Reichstag* have no control over the Government, not only is it blocked and immensely outweighed by the Emperor, by the *Bundesrat*, and by the army, but it is itself, even within the sacred circle of its impotence, a very inaccurate representation of the people. The electoral districts as laid out in 1871 were equal, each representing approximately 100,000 inhabitants. But since that day there has been practically no change,

although population has increased in some, decreased in others, so that there now exists a glaring inequality between the districts. The result is very much as though the present American Congress had been elected upon the basis of the district lines and population of 46 years ago. There are some members of the *Reichstag* elected by a few thousand voters, others by the hundreds of thousands. The voter in some districts counts for only a thirtieth of the voter in certain other districts. The large inadequately represented districts are naturally progressive cities, the small ones the conservative country regions. A Berlin deputy represents on the average 125,000 voters; a deputy of east Prussia, home of the far-famed Junkers, an average of 24,000.

But the fundamental evil is that the elections to the *Reichstag* result in the creation of an assembly politically impotent, which does not control the executive and whose powers of legislation are subject to an absolute veto by the *Bundesrat*, that is, by the reigning princes, big and little. German Government is government by the Emperor and the dynasties, with the consent of the *Reichstag*, a consent which in practice can be forced, if not given voluntarily, for the *Bundesrat* has the power of dissolving the *Reichstag* whenever it wishes to, a power always efficacious thus far. The German governing classes, the princes, the bureaucracy, agree with Moltke, who said that the real ballot was the cartridge which the German soldier carried in his cartridge box, that the real representative of the nation was the army.

For all practical purposes the *Reichstag* is merely a debating club, and a debating club that has no power of seeing that its will is carried out. As late as January, 1914, Dr. Friedrich Naumann, of "Middle Europe" fame, described the humiliating position of the body of which he was a member in the following words:

"We on the Left are altogether in favor of the parliamentary régime, by which we mean that the *Reichstag* can not forever remain in a position of subordination. Why does the *Reichstag* sit at all, why does it pass resolutions, if behind it is a waste-paper basket into which these resolutions are thrown? The problem is to change the impotence of the *Reichstag* into some sort of power." He added: "The

man who compared this House to a hall of echoes was not far wrong. To those who are accustomed to do practical work in life it appears a mere waste of time to devote themselves to this difficult and monotonous mechanism. * * * When one asks the question, What part has the *Reichstag* in German history as a whole? it will be seen that the part is a very limited one."

"Many millions among us," said Dr. Frank in the *Reichstag* on January 23, 1914, "feel it a burning shame that while Germans achieve great things in trade and industry, in politics they are deprived of rights."

In the determination of national policy the German Nation has, therefore, no way of enforcing its wishes through the only agency it possesses. In other words, the nation does not govern itself. The mainspring of power lies not in the *Reichstag*, but in the *Bundesrat*, the organ of the princes, every one of whom claims to rule by Divine right, not one of whom has his policy dictated to him by his people's representatives—and in the Kingdom of Prussia.

This, then, is the Government which German propagandists tell us is "the most democratic in the world" under a constitution which "requires no amendment, because it represents by far the highest of those forms of political organization which are actually existent in the world." Under it, adds another of the intellectual bodyguards of the Hohenzollerns, "we [Germans] are the freest people of the earth." How simple and true, if you only start from the principle laid down by one of the chief sycophants that "Liberty which is not German is not liberty."

The Kingdom of Prussia is larger than all the other German States combined, comprising two-thirds of the territory and about two-thirds of the population of Germany. The Empire differs from other confederations in that the States composing it are of unequal voting power in both the *Bundesrat* and the *Reichstag*. It was Prussia that made the German Empire, and made it by blood and iron, and in the Empire she has installed herself at every point of vantage and guards jealously not only the primacy but also the actual power.

Prussia has, since 1850, had a constitution and a parliament. What are they like? The constitution was granted by the King, and nowhere does it recognize the sovereignty of the people. What the monarch has granted he can alter or withdraw. All the restriction the constitution imposes upon the monarchical principle is that henceforth it shall be exercised and expressed in certain forms, with a certain procedure. Prussian statesmen and Prussian jurists maintain with practical unanimity that this does not mean any diminution of the power of the monarch, that the fact that he creates a legislature does not for an instant mean that he bestows upon it a part of the sovereignty.

The legislature of Prussia is the *Landtag*, which consists of two chambers, the House of Lords and the House of Representatives. The legislature does not initiate much legislation. Most of the bills passed by it have been proposed by the Government; that is, by the King. The legislature has practically no control over the administration; that is, over the powerful and permanent bureaucracy. It can in this sphere express opinions and practically nothing more. The constitution does not determine the composition of the House of Lords, but leaves that to the King to determine by royal ordinance. As a matter of fact this house is really overwhelmingly dominated by the land-owning nobility, the famous Junkers, men frequently more royalist than the King, conservative and militaristic to the marrow of their bones. The House is subject to the absolute control of the monarch through his unrestricted power to create peers. It is really a sort of royal council, an extension or variation of the royal power. It is a body that in no sense represents the people of Prussia. It has a veto upon all legislation, and the King also has an absolute veto.

Yet there exists another House in this legislature which enacts the laws that govern 40,000,000 Prussians—the so-called House of Representatives; and marvelous indeed is the construction and composition of that body. Every Prussian man who has attained his twenty-fifth year has the vote. Is Prussia, therefore, a democracy? Not exactly, for the exercise of this right is so arranged that the ballot of the poor man is practically annihilated. Universal suffrage has

been rendered illusory. And this is the way it has been done: The voters are divided in each electoral district into three classes according to wealth. The amount of taxes paid by the district is divided into three equal parts. Those taxpayers who pay the first third are grouped into one class; those, more numerous, who pay the second third, into another class; those who pay the remainder, into still another class. The result is that a very few rich men are set apart by themselves, the less rich by themselves, and the poor by themselves. Each of these groups, voting separately, elects an equal number of delegates to a convention, which convention chooses the delegates of that constituency to the lower house of the Prussian Parliament.

Thus in every electoral convention two-thirds of the members belong to the wealthy or well-to-do class. There is no chance in such a system for the poor, for the masses. This system gives an enormous preponderance of political power to the rich. The first class consists of very few men, in some districts of only one; the second is sometimes 20 times as numerous, the third sometimes a hundred, or even a thousand times. Thus, though every man has the suffrage the vote of a single rich man may have as great weight as the votes of a thousand workingmen. Universal suffrage is thus manipulated in such a way as to defeat democracy decisively and to consolidate a privileged class in power in the only branch of the government that has even the appearance of being of popular origin. Bismarck, no friend of liberalism, once characterized this electoral system as the worst ever created. Its shrieking injustice is shown by the fact that in 1900 the Social Democrats, who actually cast a majority of the votes, got only 7 seats out of nearly 400. It is one of the most undemocratic systems in existence.

The voters do not choose their representatives directly. The suffrage is indirect, and is, moreover, as we have seen, grossly unequal. As this system is in vogue for Prussian city elections as well as for state elections, it throws power, whether in the municipality or in the nation, into the hands of men of wealth.

In 1908 there were 293,000 voters in the first class, 1,065,240 in the second, 6,324,079 in the third. The first class

represented 4 per cent, the second 14 per cent, the third 82 per cent of the population. In Cologne the first class comprised 370 electors, the second 2,584, while the third had 22,324. The first class chose the same number of electors as the third. Thus, 370 rich men had the same voting capacity as 22,324 proletarians. In Saarbrücken the Baron von Sturm formed the first class all by himself and announced complacently that he did not suffer from his isolation. In one of the Berlin districts Herr Heffte, a manufacturer of sausages, formed the first class.

This system would seem to be outrageous enough by reason of its monstrous plutocratic caste. But this is not all. This reactionary edifice is appropriately crowned by another device—oral voting. Neither in the primary nor the secondary voting is a secret ballot used. Voting is not even by a written or printed ballot, but by the spoken word. Thus everyone exercises his right publicly in the presence of his superior or his patron or employer or his equals or the official representative of the King. In such a country as Prussia, where the police are notoriously ubiquitous, what a weapon for absolutism! The great landowners, the great manufacturers, the State, can easily bring all the pressure they desire to bear upon the voter, exercising his wretched rudiment of political power.

On February 10, 1910, Herr von Bethmann Hollweg defended this system in the *Landtag* with great frankness: "We are opposed to secret voting because, instead of developing the sense of responsibility in the voter, it, on the other hand, favors the terrorism which Socialists exercise over the bourgeois voters."

As a matter of fact, a large number of voters prefer to forego their miserable privilege entirely and stay at home. In 1903, 23.6 per cent only of them voted for the Prussian House of Representatives, while the same year 75 per cent voted in the elections for the *Reichstag*, where the secret ballot is used. Of those who failed to vote, much the larger percentage is from the third class, whose members evidently feel the nullity of the privileges they enjoy in this "people's kingdom of the Hohenzollern," as the Kaiser alluringly describes it.

An additional evidence as to the perfection of the "people's kingdom" is this: With the exception of a thoroughly insignificant measure passed in June, 1906, there has been no change in the electoral districts since 1858. No account has been taken of the changes in the population, and there are the same or worse disparities than there are in the case of the *Reichstag*, as previously stated. It thus happens that 3,000,000 inhabitants of four large Prussian districts return 9 representatives, while three other million, divided among forty smaller districts, return 66. Here again the natural result of the change of the population owing to the economic evolution has inordinately increased the influence of the rural districts, prevailinglly Conservative.

In 1903 under this system 324,157 Conservative votes elected 143 representatives; but 314,149 Social Democratic votes did not secure the election of a single member.

Neither in the Empire, nor in Prussia nor any of the other States that compose the Empire, does the elected chamber control the Government. In every case the Prince has the absolute veto. Where there are second chambers, as in many of the States, they are not elected, but are nominated, and are a bulwark of a privileged class. And in Prussia even the so-called popular House is merely another name for a privileged class. Neither in the Nation nor in the States are the ministers controlled by the popular assemblies. These may vote a lack of confidence as often as they feel like it. The ministers will go right on as long as the Emperor, King, Grand Duke, or Prince desires. You can not amend the constitution in any German State without the consent of the Prince. You can not amend the constitution of the Empire without the consent of one man, William II. *Reichstag* committees may discuss and propose amendments to their hearts' content. After they have obtained the consent of the *Reichstag* a rocky road opens out broadly ahead of them. For they must have the approval of the *Bundesrat*, which is appointed by the reigning Princes of Germany, and is obliged to vote as they direct. No amendment can pass the *Bundesrat* if 14 votes out of the 61 are cast against it. Of these 61, Prussia has 20. The Prussian votes are cast as the King of Prussia directs. If every individual in

Germany except this one, and including the other Kings and Dukes, wanted a change in the constitution, they couldn't get it if William II said No! This is the people's kingdom with a vengeance.

The power of the Prussian Crown is virtually absolute—"absolutism under constitutional forms," said Rudolph Gneist, once considered in Germany a great authority on public law, before the modern school of publicists—Laband, George Meyer, Bornhak, Jellinek, Delbrück—became the teachers of Germany, and taught the most reactionary political philosophy that Europe has heard in a century. They have taught that the complete, uncontrolled power of the "Government" (*Regierung*) is in the power of the prince; that the granting of constitutions did not mean the recognition of popular sovereignty in the slightest degree; that legislatures are not representations of the people but are mere organs of the State; that legislatures have no right to bring the State to a standstill; that is, have no right to refuse a budget until their wishes are respected; that, if they do, they are acting not in a constitutional but in a revolutionary sense; that if such a step is taken, then it is the right of the sovereign to recur to the principle that existed before the granting of the constitution, namely absolute monarchy, and to do what he regards as wise.

German legislatures are impotent and ineffective. The effective seat of political power in Germany is, as it has always been, in the monarchs. Germans may have the right to vote, but Napoleon I and Napoleon III showed men (and Bismarck among others) that that made no difference, if the vote led nowhere, if the body elected by the voters was carefully and completely nullified by other bodies over which the voters had no control whatever.

The legislatures of Germany are really only royal councils, consultative assemblies. Bismarck's defiance of the Prussian Chamber and the voters who elected it, in the conflict period, from 1862 to 1866, has been decisive for the fate of popular government in Germany.

Prince von Bülow, the ablest chancellor of the Empire since Bismarck, said in 1914: "Prussia attained her greatness as a country of soldiers and officials, and as such she

was able to accomplish the work of German union; to this day she is still, in all essentials, a State of soldiers and officials." The governing classes are, in Prussia, which in turn governs Germany, the monarch, the aristocracy, and a bureaucracy of military and civil officials, responsible to the King alone. The determining factor in the State is the personality of the King.

Prussia has been the strongest obstacle the democratic movement of the nineteenth and twentieth centuries has encountered. Germany in 1914 was less liberal than in 1848. The most serious blow that the principle of representative government received during that century was the one she received at the hands of Bismarck. We have expert testimony of the highest and most official sort that the effects of that blow are not outlived. Prince von Bülow, writing in 1914, said:

Liberalism, in spite of its change of attitude in national questions, has to this day not recovered from the catastrophic defeat which Prince Bismarck inflicted nearly half a century ago on the party of progress which still clings to the ideals and principles of 1848.

Parliaments will not control in Germany, the civil power will not dominate the military, until the present régime, exalted and strengthened by the victories of 1864-1870, is debased and disgraced by resounding and disastrous defeats. It is doubtful if there will be any change even then, for the German people are the most docile in Europe, with no taste for revolutions, with no revolutions to their credit, as have England, France, America, Russia, even China. Personal government has brought the present calamity upon the world, and the possessors of that power will fight to retain it and will, if necessary, treat the German people with the same ruthlessness as they have treated the other peoples of Europe.

Let us not be hoodwinked by Easter messages from William II, or by cloudy and ambiguous utterances of his spokesman, as presaging forthcoming liberalization of Germany. Prussian kings have shown that not only are treaties scraps of paper, but that constitutions are also scraps of paper when their provisions annoy the monarch. And Prussian

monarchs have never been squeamish about perjury. The famous Easter "promises" of this year will not be a greater hindrance to imperial and royal volition than previous, celebrated promises to Belgium and to the United States have been.

Germany has renounced liberty in order the better to carry on her national industry—war. As Harden, the Berlin journalist, has said: "In order to be strong she has rejected the great modern comfort of democracy." The ethical superiority of this people over all others, so confidently asserted as a justification of her leadership in the world, is shown in this phrase of Prof. Delbrück, "Blessed be the hand that traced those lines," that is, that falsified the Ems dispatch. This is the Prussian beatitude. For it brought a successful war—a war for prestige and power and lucre. The present war was intended to repeat on a far larger scale the inspiring achievement. And, if it should succeed, we would expect to see democracy flourish in Germany by the same token that we would expect to gather grapes of thorns and figs of thistles.

All this parade of constitutional reforms must not becloud the issue. The constitutions of Germany are paper constitutions. Long before it was the fashion to treat solemn international agreements as mere scraps of paper the Imperial and the Prussian constitutions were ignored and flagrantly infringed in many of their provisions with impunity by the governing authorities. In Germany the army is far more powerful than the *Reichstag*, and both know it. Even the *Bundesrat* is hardly, if at all, more powerful than the Great General Staff. And the army is not under the control of the *Reichstag* or the legislature of Prussia. It stands outside and it stands above. In Prussia the army is a kingdom within a kingdom. Within the army the Prussian King has preserved all the prerogatives of an absolute monarch. No authority in the state can intervene between the army and the sovereign. The control of the army belongs to the King. The army is not the army of the nation, but is the King's army.

"The dearest desire of every Prussian," said Bethmann Hollweg in the Prussian *Landtag* January 10, 1914, "is to see the King's army remain completely under the control of the King and not to become the army of Parliament."

Prof. Delbrück, of the University of Berlin, in a recent book describes the special character of the German army. From the point of view of sentiment the army exemplifies not the modern notion of patriotism, but the earlier notion of loyalty to a chieftain; the soldiers serve the King, not the fatherland. "The King is their comrade and they are attached to him as to their war lord, and this is the very foundation of our national life. The essence of our monarchy resides in its relations with the army. Whoever knows our officers must know that they would never tolerate the Government of a minister of war issuing from Parliament."

One has only to recall the great chapters in English history which tell of the struggle for liberty to know that it has been obtained solely by the recognition of the supremacy of Parliament over royal prerogatives and over military power.





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